

REFERENCE TITLE: **homeowners' associations; special assessments; notice**

State of Arizona  
Senate  
Forty-seventh Legislature  
Second Regular Session  
2006

# **SB 1401**

Introduced by  
Senator Burns

AN ACT

AMENDING SECTIONS 33-1255 AND 33-1803, ARIZONA REVISED STATUTES; RELATING TO CONDOMINIUMS AND PLANNED COMMUNITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 33-1255, Arizona Revised Statutes, is amended to  
3 read:

4       33-1255. Assessments for common expenses; applicability

5       A. Until the association makes a common expense assessment, the  
6 declarant shall pay all common expenses. After any assessment has been made  
7 by the association, assessments shall be made at least annually, based on a  
8 budget adopted at least annually by the association. **FOR ANY SPECIAL  
9 ASSESSMENT THAT RESULTS IN AN INCREASE OF AT LEAST TWENTY PER CENT OVER THE  
10 IMMEDIATELY PRECEDING FISCAL YEAR'S REGULAR ANNUAL ASSESSMENT, THE BOARD OF  
11 DIRECTORS SHALL PROVIDE WRITTEN NOTICE OF THE ASSESSMENT INCREASE TO ALL OF  
12 THE UNIT OWNERS IN THE CONDOMINIUM. THE BOARD SHALL PROVIDE THAT NOTICE AT  
13 LEAST THREE MONTHS BEFORE THE EFFECTIVE DATE OF THE INCREASED ASSESSMENT.**

14       B. Except for assessments under subsections C, D, E and F of this  
15 section, all common expenses shall be assessed against all the units in  
16 accordance with the allocations set forth in the declaration pursuant to  
17 section 33-1217, subsection A. Any past due common expense assessment or  
18 installment bears interest at the rate established by the board subject to  
19 the condominium documents.

20       C. Unless otherwise provided for in the declaration all of the  
21 following apply:

22           1. Any common expense associated with the maintenance, repair or  
23 replacement of a limited common element shall be equally assessed against the  
24 units to which the limited common element is assigned.

25           2. Any common expense or portion of a common expense benefitting fewer  
26 than all of the units shall be assessed exclusively against the units  
27 benefitted.

28       D. Assessments to pay a judgment against the association may be made  
29 only against the units in the condominium at the time the judgment was  
30 entered, in proportion to their common expense liabilities.

31       E. If any common expense is caused by the misconduct of any unit  
32 owner, the association may assess that expense exclusively against that unit.

33       F. If the declaration so provides, the common expense assessment for  
34 any unit on which construction has not been substantially completed may be an  
35 amount which is not less than twenty-five per cent of the common expense  
36 assessment for units which have been substantially completed. However, this  
37 reduced common expense assessment shall not be permitted, unless the  
38 declarant is obligated under the declaration to pay to the association any  
39 deficiency in monies due to the declarant having paid a reduced common  
40 assessment and necessary for the association to be able to timely pay all  
41 common expenses.

42       G. If common expense liabilities are reallocated, common expense  
43 assessments and any installment on the assessments not yet due shall be  
44 recalculated in accordance with the reallocated common expense liabilities.

1       H. This section does not apply to timeshare plans or associations that  
2 are subject to chapter 20 of this title.

3       Sec. 2. Section 33-1803, Arizona Revised Statutes, is amended to read:

4           33-1803. **Assessments; penalties**

5       A. Unless limitations in the community documents would result in a  
6 lower limit for the assessment, the association shall not impose a regular  
7 assessment that is more than twenty per cent greater than the immediately  
8 preceding fiscal year's assessment without the approval of the majority of  
9 the members of the association. **FOR ANY SPECIAL ASSESSMENT THAT RESULTS IN**  
10 **AN INCREASE OF AT LEAST TWENTY PER CENT OVER THE IMMEDIATELY PRECEDING FISCAL**  
11 **YEAR'S REGULAR ANNUAL ASSESSMENT, THE BOARD OF DIRECTORS SHALL PROVIDE**  
12 **WRITTEN NOTICE OF THE ASSESSMENT INCREASE TO ALL OF THE MEMBERS OF THE**  
13 **ASSOCIATION. THE BOARD SHALL PROVIDE THAT NOTICE AT LEAST THREE MONTHS**  
14 **BEFORE THE EFFECTIVE DATE OF THE INCREASED ASSESSMENT.** Unless reserved to  
15 the members of the association, the board of directors may impose reasonable  
16 charges for the late payment of assessments. A payment by a member is deemed  
17 late if it is unpaid fifteen or more days after its due date, unless the  
18 community documents provide for a longer period. Charges for the late  
19 payment of assessments are limited to the greater of fifteen dollars or ten  
20 per cent of the amount of the unpaid assessment. Any monies paid by the  
21 member for an unpaid assessment shall be applied first to the principal  
22 amount unpaid and then to the interest accrued.

23       B. After notice and an opportunity to be heard, the board of directors  
24 may impose reasonable monetary penalties on members for violations of the  
25 declaration, bylaws and rules of the association. Notwithstanding any  
26 provision in the community documents, the board of directors shall not impose  
27 a charge for a late payment of a penalty that exceeds the greater of fifteen  
28 dollars or ten per cent of the amount of the unpaid penalty. A payment is  
29 deemed late if it is unpaid fifteen or more days after its due date, unless  
30 the declaration, bylaws or rules of the association provide for a longer  
31 period. Any monies paid by a member for an unpaid penalty shall be applied  
32 first to the principal amount unpaid and then to the interest  
33 accrued. Notice pursuant to this subsection shall include information  
34 pertaining to the manner in which the penalty shall be enforced.